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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 RALPH W. SIMPSON,

9 Plaintiff,

10 v.

11 MICHAEL J. ASTRUE, Commissioner of  
Social Security

12 Defendant.

Case No. C09-5357BHS

ORDER OVERRULING  
PLAINTIFF'S OBJECTIONS AND  
ADOPTING REPORT AND  
RECOMMENDATION

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14 This matter comes before the Court on the Report and Recommendation of the  
15 Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 16) and Plaintiff's  
16 Objections to the Report and Recommendation (Dkt. 17).

17 On June 16, 2009, Plaintiff Ralph W. Simpson filed a complaint seeking judicial  
18 review of an Administrative Law Judge's ("ALJ") denial of Plaintiff's application for  
19 Disability Insurance Benefits and Supplemental Security Income benefits. Dkt. 1. On  
20 February 2, 2010, Judge Creatura issued a Report and Recommendation and recommended  
21 that the Court should affirm the ALJ's decision. Dkt. 16. On February 16, 2010, Plaintiff  
22 filed objections to the Report and Recommendation. Dkt. 17.

23 Plaintiff argues that Judge Creatura did not address Plaintiff's arguments regarding  
24 the ALJ's rejection of Dr. Jordan Firestorm's medical opinion that "sitting, standing, and  
25 walking should alternate through a workday." *Id.* at 1-3. The error, however, lies in  
26 Plaintiff's mischaracterization of Dr. Firestorm's evaluation of Plaintiff. The ALJ gave  
27 "significant weight" to the opinion of Dr. Firestorm. Dkt. 8, at 15 (Administrative Record).


1 Moreover, Judge Creatura addressed the ALJ's assessment of Dr. Firestrom's opinion. Dkt.  
2 16 at 5. Therefore, Plaintiff's objection that "significant probative evidence" was ignored, is  
3 overruled.

4 The Court having considered the Report and Recommendation, Plaintiff's objections,  
5 and the remaining record, does hereby find and order:

- 6 (1) The Court **OVERRULES** Plaintiff's Objection;  
7 (2) The Court **ADOPTS** the Report and Recommendation; and  
8 (3) The administrative decision denying Plaintiff's application for benefits is

9 **AFFIRMED.**

10 DATED this 3<sup>rd</sup> day of March, 2010.

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13 BENJAMIN H. SETTLE  
14 United States District Judge  
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